

## **REMARKS**

### **I. Status of Claims**

Claims 1, 3-8, 10, 12, 13, 15 and 17-24 are pending the application. The application has been amended in response to the final Office Action dated November 5, 2003. Claims 1, 3-8, 10-24 are pending, and by this response the rejections of those claims are overcome. Reconsideration and prompt early allowance are respectfully requested.

### **II. Rejection under 35 U.S.C. § 112, second paragraph**

Claims 1, 8 and 10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action more particularly rejected claims 1, 8 and 10 under 35 U.S.C. § 112, second paragraph, for indefiniteness in the limitation of the "client management data collected at each of the two or more client machines is also stored and averaged at that client machine". Applicants respectfully submit that limitation as expressed adequately conveys the limitation that data which one machine collects is stored and averaged at that machine, rather than combining data from multiple machines which is then averaged and stored at one machine. However, to advance prosecution and without prejudice the applicants have amended those claims to satisfy any concerns with regard to Section 112, second paragraph by referring to the data being "stored and averaged at each such respective client machine".

### **III. Rejection under 35 U.S.C. § 102**

Claims 1, 3, 4, 6, 7, 8, 10, 12, 13, 20, 21, 23 and 24, a were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,269, 401 to Fletcher *et al.* Claim 1 recites a method of “collecting capacity planning data for a plurality of client machines”. The claimed invention recites “collecting client management data at two or more” client machines, “storing the client management data in a cache” at each of those two or more client machines for a selected interval, and “averaging” that cached data, with the “client management data collected at each of the two or more client machines” also being “stored and averaged at each such respective client machine”. The invention claimed in claim 1 therefore relates to a method in which multiple client machines collect or capture their own sets of client management data, and concurrently or independently store and average the data which they separately collect. That separately “averaged client management data” which is conditioned and processed in this distributed fashion may then be transmitted to a “central collection location”.

Fletcher does not identically disclose a method for collecting capacity planning data like that recited in claim 1. Fletcher discloses a monitoring platform designed to track network parameters and individual computer behavior simultaneously, to permit an administrator to detect potentially related anomalies occurring at both the network and workstation levels. See e.g. col. 26, lines 6-23. In the course of carrying out that monitoring, Fletcher describes a statistics table (550, Fig. 5) which a computer system hosting the monitoring of the network can record. Col. 8, lines 15-31. Part of the performance (not capacity) statistics which are imaged to that table are response times to

network “pings” or packet probes, which response times may be collected and sorted for minimum, maximum, average values and so forth.

Fletcher therefore does not describe a method including “collecting client management data at two or more” client machines. Fletcher instead describes collecting performance data at one machine. That one machine may then process that unitary data. However Fletcher does not and can not teach that the “client management data collected at each of the two or more client machines” is also “stored and averaged at each such respective client machine”.

That is, Fletcher nowhere describes or suggests multiple machines capturing varying client management data sets, each of which may be “stored and averaged” at each respective client machine, in concurrent or independent fashion. Fletcher instead simply describes one sampling action occurring at one machine at one time. Fletcher indicates that the client computer system denoted as element 110 may constitute more than one machine. See e.g. col. 5, lines 57-67. However Fletcher does not describe that more than one of those machines may perform a monitoring function at the same time, merely that the machines may be coupled into the network at the same time. Statistics table 550 for instance is only described as imaging data from one machine, and central computer system (300) is only described as receiving that one table from one machine. Diverse data sets with varying averages or other concurrent or independent reports are not taught. Lacking these and other features of the claimed invention, Fletcher is not adequate to support the rejection of claim 1 under 35 U.S.C. § 102(e), and that rejection is overcome. Claims 3, 4, 6 and 7 distinguish over Fletcher for similar reasons to claim 1 from which they depend, as well as for the further limitations recited therein.

Claim 8 was rejected under 35 U.S.C. § 102(e) as being anticipated by Fletcher. Claim 8 recites one or more “computer-readable media having computer-executable instructions” which may be executed to collect “client management data at two or more of the plurality of client machines”, as well as “storing” that data to the two or more machines. As recited in that claim, the data so collected is “stored and averaged at each such respective client machine”. Fletcher again fails to disclose distributed storing and averaging of independently captured data, as recited. Rather that reference teaches the capture of network data from a single vantage point, and certainly not the concurrent or independent averaging or other processing of that data at respective client machines. Lacking description of at least those recited features, Fletcher is not adequate to support the rejection of claim 8 under 35 U.S.C. § 102(e) and that rejection is overcome. Claims 20-24 distinguish over Fletcher for similar reasons to claim 8 from which they depend, as well as for the further limitations recited therein.

Claim 10 was rejected under 35 U.S.C. § 102(e) as being anticipated by Fletcher. Claim 10 recites one or more “computer-readable media having computer-executable components”, those components including “client collection components” to collect “client management data at two or more of the plurality of client machines”, as well as “caching components” for “storing” that data to the two or more machines. As recited in the claim, the components likewise include “averaging components” which may operate so that collected data is “stored and averaged at each such respective client machine”. Fletcher again fails to disclose distributed caching and averaging operations on independently operating client machines, as recited. Again the reference teaches network monitoring from one point of entry in the network, without concurrent or independent

averaging or other processing at independent client machines. Lacking description of at least those recited features, Fletcher is not adequate to support the rejection of claim 10 under 35 U.S.C. § 102(e) and that rejection is overcome. Claims 12 and 13 distinguish over Fletcher for similar reasons to claim 10 from which they depend, as well as for the further limitations recited therein.

Claim 15 was rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,453,346 to Garg et al. As noted in prior response, Garg merely discloses a network storage management system in which certain data reduction is applied by taking snapshots of the network at intervals and only recording changes in storage or other resources when necessary. Claim 15 in contrast recites one or more “computer-readable media having computer-executable modules”, those modules including “means for collecting client management data”, “means for storing” that data and “means for separately averaging” the stored client management data. Garg fails to disclose or suggest a set of means or other limitations of the recited type, permitting independent or concurrent averaging to take place in separately described means. Garg instead describes one dedicated “data collection module” (30) performing that task. Lacking description of at least these recited features, Garg is not adequate to support the rejection of claim 15 under 35 U.S.C. § 102(e) and that rejection is overcome. Claims 17 and 18 distinguish over Garg for similar reasons to claim 15 from which they depend, as well as for the further limitations recited therein.

Claim 19 recites one or more “computer-readable media having stored thereon a data structure” comprising a data field containing “capacity planning data” which represents “averaged performance monitoring data collected over a period of time”,

wherein the “the performance monitoring data” is converted into “capacity planning data” before the data structure is transmitted to a central location for capacity planning purposes. Applicants respectfully submit that Garg’s teaching that the storage device (36) is capable of “receiving data from data reduction module, cognitive signature module 34, and an analysis module 38” in no way anticipates the recited invention including a data field encoding “capacity planning data”, that capacity planning data being converted from “performance monitoring data” before transmission to a central location. That and other sections of that reference merely describe techniques for generating a data reduction operation, not an explicit “capacity planning” operation for long term network purposes. Lacking these and other features of the claimed invention, claim 19 distinguishes over Garg, Fletcher and the other art of record.

## **II. Rejection under 35 U.S.C. § 103(a)**

Claims 5 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fletcher, with the “selected time interval” defined as at least “twice as long as the first time interval” being stated to be an obvious modification of Fletcher’s platform. Applicants respectfully submit that Fletcher fails to suggest the method or media recited in claims 5 and 22 as a whole, including the ability to “average” client management data in respective client machines. The invention claimed in claims 5 and 22 therefore also overcomes Fletcher and the other art of record.


## **CONCLUSION**

For at least the reasons above, claims 1, 3-8, 10, 12-13, 15 and 17-24 are believed to be in condition for allowance. Applicants respectfully request entry of this

Amendment, withdrawal of the pending rejections and allowance of those claims. Should however any issues remain prior to issuance of this application, the Examiner is urged to contact the undersigned to promptly resolve the same. The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-2112, referencing Attorney Docket No. MFCP.70155.

Respectfully submitted,

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